

Tax Briefing

Romania/November 2011

1. ORDER No. 894 of November 1, 2011 on the application of article XI of Government Ordinance no. 30/2011 amending and supplementing Law no. 571/2003 on the Fiscal Code, and also the regulation of some fiscal measures

The delay penalties on health insurance contributions due and unpaid to the Unique National Fund of Social Health Insurance (hereinafter called UNFSHI) by individuals can be cancelled/granted reduction.

The competent authorities for that are:

- County and Bucharest Municipality Health Insurance Houses,
- Health Insurance House of Defense, Public Order, National Security and Judicial Authority and
- Health Insurance House of the Ministry of Transport, Constructions and Tourism,

for payment obligations administered by each of them.

2. DECISION No 1078 of October 26, 2011 amending the Annex to the Methodological Norms for implementing the Government Ordinance no. 75/2001 on the organization and functioning of the fiscal record, approved by Government Decision No 31/2003

The list of facts that are written in the taxpayer's fiscal record has been amended.

Starting with January 1st, 2012, a number of new facts can be included in the taxpayer's fiscal record:

- the refusal to provide to the financial and fiscal authorities materials/goods that are subject to taxes, fees and contributions due to the general consolidated budget in order to establish the correctness of the tax declaration;

- failure by the payers to retain, according to the law, of amounts representing taxes and withholding contributions;

- the retention and not remitting in its entirety by the payers of amounts representing taxes and withholding contributions, unless they are committed in such conditions that may be considered by the law as criminal offences

3. DECISION No 1105 of November 2, 2011 amending Government Decision No 500/2011 on the general registry of employees evidence

A clarification of the elements representing remuneration rights that are filled in the Registry of Employees Evidence (called REVISAL) has been made to encompass the gross monthly salary and bonuses as stated in the individual employment contract.

4. ORDER No 3389 of November 3, 2011 on establishing of the tax base by estimation

The estimation of the tax base for incomes, taxes, contributions and other amounts due to the State's General Consolidated Budget is made by the tax inspection authorities in situations such as:

- documents and information shown during a tax inspection are incorrect or incomplete;

- documents and information requested do not exist or are not made available to the tax inspection authorities.

In order to estimate the tax base, the tax inspection authorities may take into account those elements that are the closest to the actual fiscal facts. Setting the tax base will be made by estimating both revenues and related expenses.

5. ORDER No 3392 of November 4, 2011 for the approval of the ex officio Procedure of incomes, taxes and contributions when a regime of self-taxation exists

The ex officio procedure for establishing incomes, taxes and contributions when a regime of self-taxation or withholding exists applies to tax obligations contained in the tax vector.

6. ORDER No 2795 of November 10, 2011 on the criteria/conditions for registration for VAT purposes

The criteria/conditions for registration for VAT purposes of companies incorporated under Law no. 31/1990 and registered with the Trade Registry are established.

The request for VAT registration is done by:

- *filing form 098 - Application for registration for VAT purposes*, according to Article 153, paragraph (1), letter a) of the Tax Code or

- *using the Annex to the Application for Registration for VAT purposes / Statement of specifications* for taxable persons who request for registration, according to Article 153, paragraph (1), letters a) and c) of the Tax Code.

7. ORDER No. 2842 of November 22, 2011 on the approval of norms for the administration of tax debts of administrative-territorial units or, as appropriate, of the administrative-territorial subdivisions of municipalities for cancellation of some accessory tax liabilities administered by specialized departments of local public administrative authorities

If the taxpayer pays the principal tax liabilities and the related share of accessory tax liabilities, outstanding as of August 31, 2011, the competent fiscal authority shall verify the compliance with the conditions stipulated in the Government Ordinance no. 30/2011 and shall issue, as appropriate:

a) the cancellation decision for 50% of the penalties calculated until the payment date, provided that they are related to the main outstanding tax liabilities on August 31, 2011 and are paid until December 31, 2011;

b) the cancellation decision for 25% of the penalties calculated until the payment date, provided that they are related to the main outstanding tax liabilities on August 31, 2011 and are paid until June 30, 2012.

8. ORDER No 2875 of November 30, 2011 on the approval of the Nomenclature of independent activities conducted by taxpayers who derive commercial incomes, for which the net income can be determined based on annual income standards

The Nomenclature of independent activities conducted by taxpayers who derive commercial income, for which the net income can be determined based on annual income standards are listed in the Annex to this order.

The General Directorate of Public Finance of Counties, respectively of Bucharest Municipality will set the income standards and will ensure their annually publication. For the year 2012 the income standards will be published during the fourth quarter of 2011.

1. ORDIN Nr. 894 din 1 noiembrie 2011 privind aplicarea prevederilor art. XI din Ordonanta Guvernului nr. 30/2011 pentru modificarea si completarea Legii nr. 571/2003 privind Codul fiscal, precum si pentru reglementarea unor masuri financiar-fiscale

Contributiile de asigurari sociale de sanatate datorate si neplatite Fondului National Unic de Asigurari Sociale de Sanatate (denumit FNUASS) de catre persoanele fizice pot beneficia de facilitati de anulare/reducere a penalitatilor de intarziere.

Facilitatile se acorda de catre:

- Casele de Asigurari Sociale de Sanatate Judetene si a Municipiului Bucuresti,
 - Casa Asigurarilor de Sanatate a Apararii, Ordinii Publice, Sigurantei Nationale si Autoritatii Judecatoresti si
 - de Casa Asigurarilor de Sanatate a Ministerului Transporturilor, Constructiilor si Turismului,
- pentru obligatiile de plata administrate de fiecare dintre acestea.

2. HOTARARE Nr. 1.078 din 26 octombrie 2011 privind modificarea anexei la Normele metodologice pentru aplicarea Ordonantei Guvernului nr. 75/2001 privind organizarea si functionarea cazierului fiscal, aprobate prin Hotararea Guvernului nr. 31/2003

S-a modificat lista cu faptele care se inscriu in cazierul fiscal al contribuabililor.

Incepand cu 1 ianuarie 2012 se stabilesc noi fapte care vor putea fi inscrise in cazierul fiscal al contribuabililor:

- refuzul de a prezenta organului financiar-fiscal bunurile materiale supuse impozitelor, taxelor, contributiilor datorate bugetului general consolidat, in vederea stabilirii realitatii declaratiei fiscale;
- neretinerea, potrivit legii, de catre platitorii obligatiilor fiscale, a sumelor reprezentand impozite si contributii cu retinere la sursa;
- retinerea si nevarsarea in totalitate, de catre platitorii obligatiilor fiscale, a sumelor reprezentand impozite si contributii cu retinere la sursa, daca nu sunt savarsite in astfel de conditii incat, potrivit legii, sa fie considerate infractiuni.

3. HOTARARE Nr. 1.105 din 2 noiembrie 2011 pentru modificarea Hotararii Guvernului nr. 500/2011 privind registrul general de evidenta a salariatilor

Se clarifica elementele privind drepturile salariale care se completeaza in Registrul de Evidenta al Salariatilor (denumit REVISAL), respectiv salariul de baza lunar brut si sporurile asa cum sunt prevazute in contractul individual de munca).

4. ORDIN Nr. 3.389 din 3 noiembrie 2011 privind stabilirea prin estimare a bazei de impunere

Estimarea bazei de impunere pentru impozite, taxe, contributii si alte sume datorate Bugetului General Consolidat al Statului se efectueaza de catre organele de inspectie fiscala in situatii cum ar fi:

- documentele si informatiile prezentate in cursul inspectiei fiscale sunt incorecte sau incomplete;

- documentele si informatiile solicitate nu exista sau nu sunt puse la dispozitia organelor de inspectie fiscala.

Pentru estimarea bazei de impunere, organele de inspectie fiscala vor identifica acele elemente care sunt cele mai apropiate situatiei de fapt fiscale. Stabilirea bazei de impunere se va face prin estimarea atat a veniturilor, cat si a cheltuielilor aferente acestora.

5. ORDIN Nr. 3.392 din 4 noiembrie 2011 pentru aprobarea Procedurii privind stabilirea din oficiu a impozitelor, taxelor si contributiilor cu regim de stabilire prin autoimpunere sau retinere la sursa

Procedura privind stabilirea din oficiu a impozitelor, taxelor si contributiilor cu regim de stabilire prin autoimpunere sau retinere la sursa se aplica pentru obligatiile fiscale cuprinse in vectorul fiscal.

6. ORDIN Nr. 2.795 din 10 noiembrie 2011 privind stabilirea criteriilor pentru conditionarea inregistrarii in scopuri de TVA

Stabileste criteriile pe baza carora se conditioneaza inregistrarea in scopuri de TVA a societatilor comerciale infiintate in baza Legii nr. 31/1990 si inmatriculate la Registrul Comertului.

Solicitarea inregistrarii in scopuri de TVA se face prin:

- depunerea *formularului 098 - Cerere de inregistrare in scopuri de taxa pe valoare adaugata*, conform art. 153 alin. (1) lit. a) din Codul fiscal sau

- a *Anexei la Cererea de Inregistrare in scopuri de taxa pe valoare adaugata / Declaratia de mentiuni* pentru persoanele impozabile care solicita inregistrarea, conform art. 153 alin. (1) lit. a) si c) din Codul fiscal.

7. ORDIN Nr. 2.842 din 22 noiembrie 2011 privind aprobarea normelor pentru administrarea creantelor fiscale ale unitatilor administrativ-teritoriale sau, dupa caz, ale subdiviziunilor administrativ-teritoriale ale municipiilor in vederea anularii unor obligatii fiscale accesorii administrate de catre compartimentele de specialitate ale autoritatilor administratiei publice locale

In cazul in care contribuabilul achita obligatiile fiscale principale si cota de accesorii aferente acestora, restante la data de 31 august 2011, Organul Fiscal competent verifica indeplinirea conditiilor prevazute in Ordonanta Guvernului nr. 30/2011 si emite, dupa caz:

a) decizia de anulare a cotei de 50% din majorarile de intarziere calculate pana la data platii, aferente obligatiilor fiscale principale restante la data de 31 august 2011 si achitate pana la data de 31 decembrie 2011;

b) decizia de anulare pentru 25% din majorarile de intarziere calculate pana la data platii, aferente obligatiilor fiscale principale restante la data de 31 august 2011 si achitate pana la data de 30 iunie 2012.

8. ORDIN Nr. 2.875 din 30 noiembrie 2011 privind aprobarea Nomenclatorului activitatilor independente pentru care venitul net se poate determina pe baza normelor anuale de venit, activitati desfasurate de contribuabilii care realizeaza venituri comerciale

Nomenclatorul activitati independente pentru care venitul net se poate determina pe baza normelor anuale de venit, activitati desfasurate de contribuabilii care realizeaza venituri comerciale sunt prevazute in Anexa din prezentul ordin.

Directiile Generale ale Finantelor Publice Judetene, respectiv a Municipiului Bucuresti vor stabili nivelul normelor de venit si vor asigura publicarea acestora anual. Pentru anul 2012 normelor de venit se publica in cursul trimestrului IV al anului 2011.

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